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EURODAC CONVENTION AND PROTOCOL

The Council reached global agreement on the content of the draft Eurodac Convention, which will be "frozen" until the entry into force of the Amsterdam Treaty, subject to certain parliamentary scrutiny reservations. The Council noted that, once the Amsterdam Treaty enters into force, the Commission will put forward the appropriate proposal for a Community legal instrument taking on board the content of the draft Convention. During the intervening period further thought will be given by Denmark, Ireland and the United Kingdom, to the application of the Protocols to the Amsterdam Treaty concerning the respective positions of these three Member States with regard to visas, asylum, immigration and other policies related to the free movement of persons.

Proceeding in this way will allow for the rapid establishment of Eurodac, a central system for the comparison of fingerprints of asylum applicants, aimed at facilitating the determination of the State responsible for examining an asylum application lodged in one of the EU Member States, and hence the application of the criteria set out in the 1990 Dublin Convention which entered into force on 1 September 1997.

With regard to the draft Protocol aimed at extending the taking of fingerprints to "illegal immigrants", drawn-up following the agreement at the May 1998 session to establish it, the Council mandated its competent bodies to finalize the text for the forthcoming Justice and Home Affairs session in 1999. Further work will have to focus in particular on how to deal with the aliens found illegally present inside a Member State, namely when the connection with illegal border crossing cannot be established.

Under the agreed content of the draft Convention, Member States will take the fingerprints of asylum seekers who are at least 14 years old and transmit the data to the Central Unit to be set up within the Commission. This Central Unit will compare the data with those already stored and inform the Member State which transmitted the data of the results of the comparison. On the basis of this data, the Member State in which the asylum seeker had lodged his first application can be determined and take responsibility for examining the asylum application. It should be noted that data will be stored in the central database for 10 years. However, the data will be erased when it relates to a person who becomes a citizen of a Member State and will be blocked when refugee status has been given to the person in question in a Member State. Special provisions ensure that appropriate data protection will be guaranteed.

Under the draft Protocol, Member States would also take fingerprints of every alien of at least 14 years of age who, having come from a third country, is apprehended in connection with irregular border crossing and who is not turned back. Member States are asked to transmit the data to the Central Unit which would record them only for comparison with data on asylum applicants transmitted subsequently. Under the draft Protocol, the data of these illegal immigrants should be stored for 2 years. With regard to aliens found illegally present in a Member State, work will have to be pursued on the question of the circumstances in which Member States may communicate to the Central Unit fingerprints of this category of "illegal immigrants" for the purposes of checking whether such an alien has previously lodged an asylum application in another State.